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ABSTRACT

Two provisions in Title I--maintenance of effort (MOE) and supplement not supplant (SNS)--are designed to limit the extent to which federal funds can be used to replace state and local resources. To assess the quality of oversight of these provisions, the General Accounting Office (GAO) determined how Arizona, California, Florida, Indiana, Louisiana, and Massachusetts conducted oversight of MOE and SNS provisions; noted factors affecting their ability to do so; investigated U.S. Department of Education efforts to enforce MOE and SNS; and examined changes in the six states that occurred in the federal share of education funding from school year 1999-00 to 2000-01. State programs used three tools for oversight: state annual financial reports, the single audit process, and limited program monitoring, each of which had limitations. Few changes occurred in federal/state/local fiscal partnerships in financing education from 1999-00 to 2000-01. GAO recommends that Congress consider eliminating the SNS requirement for schoolwide programs and increasing the MOE requirement, also recommending that the Secretary of Education enhance technical assistance and training efforts to ensure better oversight. Four appendixes contain study scope and methodology, comments from the Department of Education, GAO contacts and staff acknowledgements, and related GAO products. (SM)

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GAO

Report to Congressional Requesters

February 2003

DISADVANTAGED STUDENTS

Fiscal Oversight of Title I Could Be Improved

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Highlights

Highlights of GAO-03-377, a report to Congressional Requesters

DISADVANTAGED STUDENTS

Fiscal Oversight of Title I Could Be Improved

Why GAO Did This Study

New resources for education come at a time when states are struggling to address budget shortfalls. Two provisions in Title I—maintenance of effort (MOE) and supplement not supplant (SNS)—are designed to limit the extent to which federal funds could be used to replace state and local resources. To assess the quality of oversight of these provisions, GAO determined (1) how 6 states—Arizona, California, Florida, Indiana, Louisiana, and Massachusetts—conducted oversight of the MOE and SNS provisions and what factors affected their ability to do so; (2) what efforts were made by the U.S. Department of Education to enforce MOE and SNS; and (3) in the 6 states, what changes have occurred in the federal share of education funding from school year 1999-2000 to 2000-2001.

What GAO Recommends

To more effectively focus audit resources, Congress should consider eliminating the SNS requirement for schoolwide programs—where it is unworkable—and increase the MOE requirement. In addition, GAO recommends that the Secretary of Education enhance technical assistance and training efforts to ensure better oversight of Title I's fiscal requirements and more effective use of the single audit process.

www.gao.gov/cgi-bin/getrpt?GAO-03-377.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Marnie Shaul on (202) 512-7215 or Paul Posner on (202) 512-9573.

What GAO Found

In the states we visited, state program officials used three tools—the states' annual financial reports, the single audit process, and limited program monitoring—to oversee Title I's fiscal accountability requirements. While program officials had little difficulty in applying the MOE provision because it involves a straightforward calculation, state and local program officials and auditors we spoke with cited a number of factors that made it difficult to enforce the SNS provision under certain circumstances. One of the challenges auditors faced was determining whether a school district would have removed its own funds from a program and allocated them elsewhere even if federal funds had not been available—an action that is allowable. Another challenge was applying the SNS provision in circumstances where it is difficult to track federal dollars such as in schoolwide programs—where all funds are pooled—or in districts undergoing significant districtwide reforms—where comparisons to previous budgets are problematic. While some auditors struggled to apply the SNS provision to the particular circumstance of districts and schools, program officials relied primarily on the results of the single audits without being aware of some of these audit's limitations. For example, some officials did not understand that not all districts, programs, or transactions may be covered by the audit. While program monitoring adds a degree of depth to the efforts to oversee the SNS provision, most of the states in GAO's review conducted only limited program monitoring.

We identified three key efforts Education made to guide, monitor, and enforce the fiscal accountability provisions, but each had limitations. First, Education provided guidance and technical assistance to state and local education agencies and auditors on how to interpret and apply Title I's fiscal accountability requirements. Despite the availability of this guidance, many of the auditors and program officials we spoke with expressed confusion regarding the application of these provisions to their particular circumstances, such as schoolwide programs. Second, Education conducted program monitoring of select state and local education programs each year; however, coverage was limited. Third, Education reviewed the audit reports conducted under the Single Audit Act. However, Education's Office of Inspector General and GAO have criticized the review and audit follow up process.

Few changes occurred in the federal/state/local fiscal partnership in financing education services between school year 1999-2000 and 2000-2001. It is too soon to tell how recent increases in federal funds and state and local fiscal pressures will affect funding for education and the federal share.

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Abbreviations

AFM	Achievement Focused Monitoring
ESEA	Elementary and Secondary Education Act
FTE	full-time equivalent
LEA	local education agency
MOE	maintenance of effort
NCLB	No Child Left Behind Act
OIG	Office of Inspector General
OMB	Office of Management and Budget
SEA	state education agency
SNS	supplement not supplant
SY	school year
USD	Unified School District

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United States General Accounting Office
Washington, DC 20548

February 28, 2003

The Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
House of Representatives

On January 8, 2002, the President signed the No Child Left Behind Act (NCLB) of 2001 into law. NCLB amends the Elementary and Secondary Education Act (ESEA) of 1965 and reauthorizes many federal aid programs for elementary and secondary education. ESEA's Title I program is the largest federal elementary and secondary education program, providing about $10.4 billion to benefit 11 million low-income and disadvantaged students in about 45,000 schools nationwide in 2002. Title I funds are distributed by formula from the federal government to state education agencies (SEA), which then pass through most of these funds to their local education agencies (LEA). LEAs use these funds to operate two types of Title I programs—targeted assistance programs, which target funds only to qualified low-income children who meet Title I eligibility requirements, and schoolwide programs, which pool funds to help all students in a school improve their performance.

Under NCLB, federal funds for elementary and secondary education have grown substantially; for example, Title I grew 30 percent from $8 billion in 1999 to $10.4 billion in 2002. These new resources for federal education programs come at the same time that states and school districts face difficult funding choices as they struggle to address budget shortfalls resulting from economic downturns and other requirements, (i.e., homeland security.) These shortfalls heighten the risk that state and school district officials will use federal resources to replace their own funds. Two provisions in the act limit the extent to which states and LEAs can do that. First, a maintenance of effort (MOE) provision requires that an LEA maintain at least 90 percent of its aggregate state and local education expenditures or its per student expenditures for the preceding year as a condition for receiving any federal Title I grant funds; this provision limits the amount of fiscal relief a grantee can achieve by

substituting federal funds for its own by requiring local education agencies to sustain their own funding levels for education programs in the aggregate. Second, a supplement-not-supplant (SNS) provision requires grant recipients to use federal funds to supplement the amount of funds that would, in the absence of such federal funds, be made available from nonfederal sources; this provision limits substitution of federal funds for state/local funds at the school—or program—level by preventing LEA's from reallocating funds for specific activities. Some have raised concerns about whether these provisions are adequately enforced either by the Department of Education, which is responsible for monitoring the SEAs, or the SEAs, which are responsible for monitoring LEAs.

Federal grant management policies require SEAs to take the responsibility for ensuring that their LEAs comply with federal laws and regulations. States must

- identify to the LEAs all applicable compliance requirements,
- monitor LEA activities to provide reasonable assurance that the LEA is in compliance with federal requirements, and
- ensure required audits are performed and require that LEAs take prompt corrective action on any audit findings.

Federal grant recipients that spend more than $300,000 in federal awards in any given year must undertake a single audit as required under the Single Audit Act (Single Audit Act), as amended. Many grant recipients spend funds from a number of federal programs, and the single audit focuses audit resources on a federal grant recipient's internal controls which covers an entity's process over its operations and financial reporting. In addressing compliance issues, the single audit reviews only selected provisions of laws and regulations that have a direct and material effect governing selected federal awards. This is in contrast to the more detailed transactional auditing that was conducted under program-specific audits.

To better assess the adequacy of oversight of the fiscal accountability provisions, you asked us to determine (1) how selected states ensure compliance with both the MOE and the SNS provisions and what factors affect their ability to do so; (2) what efforts were made by Education to enforce these provisions and what limitations, if any, did these efforts have; and (3) in selected states what changes occurred between school year 1999-2000 and 2000-2001 in the federal share of education expenditures and, in 2000-2001, what share of the SEA operating expenditures were financed with federal funds.

As agreed, we focused on six states[1] and six local school districts.[2] We reviewed guidance on the fiscal accountability provisions developed by the SEAs, and we reviewed both SEA and LEA budgets and financial statements for school year 1999-2000 and 2000-2001. We interviewed state and local program officials, school district administrators, and their auditors about their roles and responsibilities for enforcing the fiscal accountability provisions and reviewed the auditors' workpapers. We interviewed officials at Education and reviewed Education's guidance and regulations on these two fiscal accountability provisions. We also asked finance officers from the six SEAs to provide us with comparable information on total funding for education and the federal share of resources used to finance the SEA's operating costs. We conducted our work between July 2002 and January 2003 in accordance with generally accepted government auditing standards. A more detailed discussion of our scope and methodology is included in appendix I.

Results in Brief

In the states we visited, state program officials used three tools—the states' annual financial reports, the single audit process, and program monitoring—to oversee Title I's fiscal accountability requirements. Program officials had little difficulty applying the maintenance of effort provision because it involves a straightforward and objective calculation from their annual financial reports data. But state and local program officials and auditors we spoke with cited a number of factors that made it difficult to enforce the supplement-not-supplant provision. Enforcement of the supplement-not-supplant provision is primarily done through the single audit process. One of the challenges auditors faced was determining whether a local education agency would have removed its own funds from a program and allocated them elsewhere if federal funds had not been available. Another challenge was applying the supplement-not-supplant provision in circumstances where it is difficult to track federal dollars—for example, in schoolwide programs where federal, state, and local funds are pooled or where districtwide school reforms have been implemented and programs have changed from year to year—making it difficult to compare funding. Some state program officials relied on the single audit

[1]Arizona, California, Florida, Indiana, Louisiana, and Massachusetts.

[2]Douglas Unified School District and Glendale Elementary School District in Arizona, San Diego City Unified School District in California, Duval County Public Schools in Florida, Indianapolis Public Schools in Indiana, and Jefferson Parish Public Schools in Louisiana.

without being aware of its limitations. For example, some state officials did not understand that only selected school districts, programs, or transactions are covered by the audit. Finally, while program monitoring adds a degree of depth to the efforts to enforce the supplement-not-supplant provision, most of the states in our review conducted only limited program monitoring, covering only a portion of their local education agencies in any given year.

We identified three key efforts the Department of Education made to guide, monitor, and enforce the fiscal accountability provisions, but each had limitations. First, Education provided guidance and technical assistance to state education agencies, local education agencies, and auditors on how to interpret and apply Title I's fiscal accountability provisions to programs in their states. Despite the availability of this guidance, many of the auditors and program officials we spoke with confused the various accountability provisions, believing, for example, that one test could be substituted for another. Second, Education conducted program monitoring of select state and local education programs each year; however, this coverage is limited and fiscal accountability provisions are, by design, not the primary focus of the monitoring activity. In fact, the department's guide for program monitors does not provide any guidance on monitoring the supplement-not-supplant provision at all. Rather, Education's monitoring plans focus on progress towards raising the level of student achievement. Third, Education reviews the audit reports conducted under the Single Audit Act. However, Education's Office of Inspector General (OIG) has reported that many of the reviewers lacked knowledge of the areas covered under the Single Audit Act and how single audits were done; for example, they were not aware that not every grantee, program, or transaction was covered in an audit. As a consequence, Education could fail to review key programs or provisions of law.

Few changes occurred in the federal/state/local fiscal partnership in financing education services between school year 1999-2000 and 2000-2001. It is too soon to tell how recent increases in federal funds and state and local fiscal pressures will affect funding for education and how changes, if any, in state and local financing will affect the federal share. No clear patterns emerged, among the states, with respect to the share of state operating costs that states financed with federal funds. In the six states we reviewed, the federal share of state operating expenditures in school year 2000-2001 varied from 18 percent in Florida to 43 percent in Indiana.

Since the supplement-not-supplant is unworkable in a schoolwide context we are suggesting that the Congress eliminate the SNS requirement for schoolwide Title I programs. If it chooses to do so, it could also consider increasing the MOE requirement for LEAs with schoolwide programs. In addition, we recommend that Education amend its guidance for grantees and oversight officers to address all of Title I's fiscal requirements, including the supplement-not-supplant provision where applicable.

Background

Established in 1965 as part of the Elementary and Secondary Education Act (ESEA), Title I provides grants to help schools establish and maintain programs to improve the educational opportunities of low-income and disadvantaged students. Most Title I funds are distributed by formula from Education to states. The states then pass through most of these funds to their school districts after retaining some funds—up to 1.5 percent—for state administration and state-level school improvement activities. The amount of Title I funds a school district gets is determined by a formula based on the number of students from low-income families and the state's per pupil expenditures.

Local Flexibility

Once LEAs receive funds from the state, they have flexibility in how they allocate Title I funds to individual schools and how each school delivers Title I services. As long as priority is given to schools with the highest concentration of children from low-income families, LEAs are generally free to designate which schools, among those eligible, receive funds and how much each should get. LEAs can also select the type of framework through which they deliver Title I services. Some districts have only targeted assistance in their Title I schools, some only have schoolwide programs, and others have a mixture of both. When Title I began, all schools administered targeted assistance programs. These programs targeted funds and services—such as teachers and materials—to specific qualified students who met Title I eligibility requirements. In 1978, a limited number of schools were allowed to deliver the services in the form of schoolwide programs if 75 percent or more of their student population was poor. Schools choosing to operate schoolwide programs can combine federal resources with other funds to improve the school as a whole and help all students achieve. In subsequent reauthorizations, the schoolwide option was made available to more schools by lowering the threshold percentage of low-income children required to operate a schoolwide program. NCLB allows schoolwide programs in schools with a poverty rate of 40 percent or more.

During the mid-1990s there was a trend toward providing more flexibility to state and local recipients of federal grants so they may operate programs that best serve the needs of their communities. This trend towards flexibility is evident, not only in education programs such as Title I, but in many social service programs and health programs. In these circumstances, we have found[3] that new approaches to ensuring accountability need to be designed to achieve a balance between flexibility and accountability for attaining certain national objectives. In 2001, we reported on some of the challenges in maintaining a federal-state fiscal partnership in welfare reform[4] and concluded that a broad-based maintenance of effort requirement calling for states to maintain spending across a wide range of relevant programs might both limit substitution of state funds while at the same time preserve state and local flexibility better than a traditional supplement-non-supplant requirement. Specifically, we found that, once accountability shifts to the broad purposes of the grant, federal fiscal oversight needed to shift as well and focus not only on the specifics of welfare funding but also on how states used multiple funding streams—federal, state, and local—to accomplish the program's broad goals. These findings could apply to the Title I program because schoolwide program goals are broader than the goals of a targeted assistance program and schoolwide programs combine funding streams.

Title I Fiscal Accountability Requirements

Title I contains three fiscal requirements that grantees must comply with in order to continue to receive Title I funds from one year to the next. If an SEA or LEA fails to comply with MOE, SNS, or Comparability provisions, it is required by law to return the amount of misused funds to Education.

- **Maintenance of effort (MOE)**. An LEA may receive funds if the SEA finds that the LEA's combined fiscal effort per student or the aggregate expenditures of the LEA from state and local funds for free public education for the preceding year is not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding year.

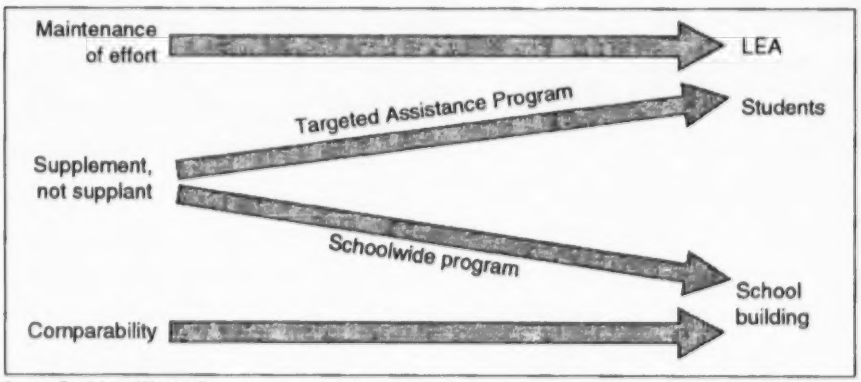
[3]U.S. General Accounting Office, *Block Grants: Issues in Designing Accountability Provisions*, GAO/AIMD-95-226 (Washington, D.C.: Sept. 1, 1995).

[4]U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, D.C.: Aug. 10, 2001).

- **Supplement-not-supplant (SNS)**. State and local education agencies must use federal funds to supplement, and not supplant, the amount of funds that would, in the absence of federal funds, be made available from nonfederal sources for the education of Title I students.
- **Comparability**. State and local funds must be used to provide services in Title I schools that are "at least comparable" to services provided by state and local funds in non-Title I schools within the same LEA.

Each fiscal requirement is enforced at a different level. For example, the MOE requirement applies only to the LEA not to individual Title I schools. The Comparability requirement is evaluated at the school level because it seeks to weigh the services provided in Title I schools with those provided in non-Title I schools. In contrast, the SNS provision is applied differently depending on how Title I services are applied. It is applied to the program or the student in targeted assistance programs to ensure that those targeted programs are providing more services for a Title I student than non-Title I students receive, or it is applied to the school if it operates a schoolwide program. (See fig. 1.)

Figure 1: Level at Which Fiscal Requirements Are Enforced



Source: Brustein and Manasevit.

Monitoring Process

There are a variety of approaches that officials at the federal, state, and local levels take to oversee state and local education agency compliance with the fiscal accountability provisions associated with Title I, including formal monitoring systems, such as the use of the single audit, and more informal monitoring systems, such as monitoring provided by interest groups.

Formal Monitoring Systems

Education distributes Title I funds to the individual states and has primary responsibility for overseeing federal education programs and providing guidance and technical assistance to SEAs. Monitoring efforts focus on state compliance with both programmatic and fiscal requirements. Any issues of noncompliance reported at the state level are to be communicated to Education and are typically resolved through the development of an SEA corrective action plan, the implementation of which will be monitored by federal agency officials.

States are considered the primary recipient, or grantee, of federal awards like Title I and are responsible for ensuring that their subrecipients comply with all federal laws and regulations governing the grant. Since SEAs pass through most of the federal funds to the LEAs, states must have the appropriate subrecipient monitoring systems in place to track Title I spending. Program monitoring systems typically include a review of funding applications, local budgets, self-assessment documents, scheduled on-site visits to schools, and technical assistance.

Single Audits

The Single Audit Act replaced multiple audits of separate grant awards with one organizationwide audit. A single audit includes an audit of the federal grant recipient's financial statements as well as an examination of its internal controls and its compliance with laws and regulations governing federal awards. It does not, however, cover every federal grant received by the organization. The objectives of the Single Audit Act are as follows:

- Promote sound financial management, including effective internal controls, with respect to federal awards administered by nonfederal entities.
- Establish uniform requirements for audits of federal awards administered by nonfederal entities.
- Promote the efficient and effective use of audit resources.
- Reduce burdens on state and local governments, Indian tribes, and nonprofit organizations.
- Ensure that federal departments and agencies rely on and use audit work done pursuant to the act.

In 1994, we reported that state and local officials had reported that the single audit process had contributed to improving state and local government financial management practices.[5]

Guidance for conducting a single audit is found in the Office of Management and Budget's (OMB) Circular A-133[6] and the accompanying compliance supplement. The guidance states that the scope of the audit shall include an examination of

- financial statements—to determine if they are presented fairly in all material respects in conformity with generally accepted accounting principles and whether the schedule of expenditures of federal awards is presented fairly;
- internal controls—to obtain an understanding of internal control over federal programs sufficient to plan the audit to support a low assessed level of control risk;
- compliance—to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on the federal program on each of its major programs; and
- prior audit findings—to perform procedures to assess the reasonableness of the summary schedule of prior audit findings.

Any single audit report should discuss the auditor's analysis of these areas and include a section that specifically focuses on federal awards, including a schedule of findings and questioned costs. State and local governments and nonprofit organizations that spend $300,000 or more in federal awards in a fiscal year must undertake a single audit.[7]

Informal Monitoring Systems

In addition to formal monitoring systems, fiscal accountability is also monitored informally by interest groups, parents groups, individuals, and the media. The public nature and easy accessibility of school district budgets, financial reports, and other fiscal information promotes budget transparency and information sharing among people outside the school

[5]U.S. General Accounting Office, *Single Audit: Refinements Can Improve Usefulness*, GAO/AIMD-94-133 (Washington, D.C., June 21, 1994).

[6]*Audits of States, Local Governments, and Non-Profit Organizations.*

[7]Each nonfederal entity that expends awards under only one federal program and is not subject to laws, regulations, or federal award agreements that require a financial statement audit, may elect to have a program-specific audit instead of a single audit. 31 U.S.C. 7502 (a)(1)(C).

system. This informal system may promote grantee compliance with applicable laws and regulations and raise red flags for the attention of the formal monitoring system.

States Used Multiple Tools to Enforce the Fiscal Accountability Provisions, but Relied Primarily on the Single Audit Process to Enforce SNS

In the states we visited, state program officials use three tools—the states' annual financial reports, the single audit process, and limited program monitoring—to monitor Title I's fiscal accountability requirements in their LEAs. In these states, enforcing the MOE provision is straightforward and objective. However, a number of factors made it difficult to ensure compliance with SNS.

Monitoring Compliance with MOE Presents Few Challenges

In the states we visited, verifying compliance with Title I's MOE requirement was a straightforward mathematical exercise and relied on LEAs' data gathered through statewide financial accounting systems. In part, monitoring and enforcing compliance with the MOE provision might have presented few challenges because until recently state and local revenues were increasing, and few grantees struggled to meet the MOE requirement.[8] Many state and LEA officials told us that the robust economy and sound fiscal situation they experienced in the late 1990s allowed them to increase spending on education.

Each of the six states we visited has strong vested interests in the integrity of its LEAs' financial reports because each has a large stake in education finance in their states; all of these states mandate the level of effort the local education agencies must provide each year in order to receive state funds and impose their own financial reporting requirements on local education agencies. While we did not verify the quality of the data, it is the same data used to calculate the MOE requirements.

Five of the six SEAs we visited use their annual financial reports to verify LEA compliance with the MOE requirements. In the sixth, Florida, the SEA

[8]ESEA allows grantees to request a waiver from the MOE requirement if they are unable to meet the requirement in any given year; but few LEAs have requested such a waiver. Only 25 LEAs have requested waivers since 1995, and Education has approved 7 requests.

relied on LEAs to submit a separate form verifying that they were in compliance with MOE requirements. A program official verified the form submitted against the previous year's submission and other grant award documentation but did not independently check against the state's accounting records. However, this check is done by auditors in separate compliance reviews. State officials in Florida said that they were considering changing their MOE verification process. They said that audited data were available from their annual financial reporting system, and they were considering streamlining the verification process to eliminate the separate reporting requirement.

Two of the states we visited, Arizona and California, do not verify LEA compliance with MOE requirements until after the current year's grant has been awarded. This practice is due to routine delays in year-end account reconciliation and timing of audits. The Arizona Office of the Auditor General cited the state's department of education for failing to enforce the MOE provisions before the current year's grant was awarded. State program officials acknowledged that they complete the grant award process before the audited financial data are available to verify compliance with MOE; however, they said that verification is finished well before the funds have been disbursed. Similarly, in California the audited data are not available until 9 months after the grant has been awarded. State program officials said that, despite these delays, there were few risks that they would be unable to collect the penalties against an LEA that was out of compliance with its MOE requirements.[9]

Many Factors Contribute to Difficulties Enforcing SNS Provision

While verifying Title I's MOE requirement was straightforward and objective, verifying compliance with the SNS provision was more challenging. SEA officials relied primarily on the single audit process to enforce the SNS provisions. But, many state and local program officials and auditors we spoke with cited a number of factors that made it difficult to ensure that grantees were in fact using federal funds to supplement and not supplant their own funds. These factors include difficulties applying the SNS provision to unique circumstances in their school districts, reliance on the single audit to ensure compliance without understanding its scope and methodology, and limited state and local program oversight of the fiscal accountability provisions.

[9]California plans to begin verifying LEA compliance with the MOE requirement before the grant is awarded in 2003.

The SNS Provision Is Difficult to Apply in Many Circumstances

It can be difficult for auditors to establish a finding of supplantation. One of the challenges auditors face in evaluating compliance with the SNS requirement is determining the basis for the states' and LEAs' funding decisions. The SNS requirement generally prohibits replacing state funds with federal funds where the displaced state funds could continue to be available for their original purpose. However, under certain circumstances, where state funding is discontinued, grantees may be able to replace these eliminated funds with Title I dollars. For example, if an SEA or LEA discontinued its own support for a particular program in response to a potential budget deficit, the use of Title I funds may be permissible.[10] The challenge for auditors in deciding if an LEA has improperly supplanted, is determining what the LEA would have done in the absence of federal funds. For example, where a state reduces its own financial support for a program and uses federal funds instead, an auditor may presume supplanting has occurred; but, a grantee could rebut that presumption by presenting evidence that fiscal stress required state budget cuts that might not have otherwise been considered. The statute also permits states to use Title I funds to replace state or local funds that had been expended for a program meeting a Title I purpose by allowing such supplemental state funds to be excluded from the SNS compliance determination.[11] In other words, an LEA is allowed to shift funds from one state or locally funded program targeted to low-income children, substitute federal funds for that program, and move its own funds to other priorities for disadvantaged children.

Even if auditors could determine what a grantee would have done if it had not received federal funds, the way that Title I services are delivered can also make it difficult to apply the SNS provisions. Table 1 summarizes the relationships between the different ways programs are delivered—targeted assistance, schoolwide programs, and districtwide reforms and the application of the fiscal accountability provisions.

[10]However, if there were evidence that other state funds could be made available, or that state law mandated state funding despite the budget deficit, the use of Title I funds could violate the SNS requirement. *See State of New York v. Education*, 903 F.2d 930 (2d Cir. 1990).

[11]20 U.S.C. § 6321(d). The implementing regulations, 34 C.F.R. § 200.79 generally provide that a program meets the intent and purposes of Title I if the program is either (1) implemented in a school in which the percentage of children from low-income families is at least 40 percent or (2) serves children who are failing, or at most risk of failing to meet the state's challenging academic achievement standards.

Table 1: Fiscal Accountability under Different Program Delivery Frameworks

Program delivery framework	Are funding sources for specific services comparable from one year to the next?	Can funding for specific services be separated by federal, state, and local sources?	Are MOE tests workable?	Are SNS tests workable?
Targeted assistance	Yes	Yes	Yes	Yes
Schoolwide programs	No	No	Yes	No
Districtwide reform efforts	No	No	Yes	No

Source: GAO analysis.

For schoolwide programs the distinction between state/local funds and federal funds—and hence the notion of supplantation—becomes unclear. In general, when services are delivered through schoolwide programs, federal, state, and local funds are pooled, making it impossible to distinguish among funding streams in an audit because a schoolwide school does not have to (1) show that Title I funds are paying for additional services, (2) demonstrate that Title I funds are used only for specific target populations, or (3) separately track federal program funds once they reach the school. While one can identify the separate funding sources going into a school one cannot identify what services they funded. Therefore, for schoolwide programs a test for SNS compliance could include either (1) a comparison from one year to the next of total—federal, state, and local—funds allocated to a Title I school or (2) a comparison of state and local funds spent in Title I schools and non-Title I schools.[12]

However, there are problems applying either test to schoolwide programs. For example, in the Glendale (Arizona) Elementary School District, every school is a Title I school and all schools operate schoolwide programs. District officials argued that because the district met its MOE requirement (in 2000-2001 it exceeded 100 percent of its preceding years expenditures), it did not need a separate internal control procedure to test for SNS. However, auditors cited the district for not having such a procedure. Our analysis shows that, for districts such as Glendale, in order to avoid supplanting funds, the district would have to maintain the same state and local funding from year to year. In other words, in districts where every school is a Title I school and all schools operate a schoolwide program, they would have to maintain a much higher MOE requirement, 100 percent, than districts that are not in this circumstance in order to

[12]See 34 CFR 200.25d (2003).

avoid supplanting funds unless they otherwise would not have spent those funds.

Moreover, comparing expenditures from one year to the next in school districts where there are both targeted assistance and schoolwide schools presents challenges. Since schoolwide program administrators can reallocate funds among programs in their schools, they can engage in budgetary practices that are not allowed in a targeted assistance school in the same district. Theoretically, the SNS provision imposes a higher expectation on schools operating schoolwide programs than it does on their targeted assistance counterparts because a year-to-year funding comparison essentially requires a schoolwide school to maintain 100 percent of its previous effort in order to comply with the SNS provision.

Furthermore, comparing the allocation of state/local funds among schools in the same year also presents challenges. For example, in Duval County (Florida) all 72 of the district's Title I schools operate schoolwide programs but not all schools were Title I schools. Duval's auditors assessed compliance with SNS by comparing the per pupil expenditure of state and local funds in Title I schools to the allocation in non-Title I schools within the same year. They found that in 2001, 5 of the district's 72 Title I schools received significantly less state and local funding per pupil than the average school received, resulting in questioned costs of $2.5 million. The auditors suspected that the district may have used federal Title I funds in place of state and local funds in these schools, but district officials claimed that many mitigating factors, such as higher teacher salaries for more experienced teachers, could explain variations in the per pupil expenditures among schools in the same district. The SEA determined that the information presented in the audit report was not sufficient to determine that supplanting occurred. SEA officials told us that auditors would need to have programmatic expertise to interpret the results of the per pupil cost comparisons in order to prove that supplantation had occurred. The auditors agreed that many factors could have contributed to the observed disparity in funding among the 5 Title I schools, but they said there were limitations to what could be expected of a single audit and pointed out that ultimately the SEA should use the audit findings as a basis for determining whether the LEA is in compliance or not.

Finally, when a district engages in comprehensive districtwide reform resulting in programmatic changes, it can be difficult to make the types of comparisons necessary to determine compliance with SNS, particularly in the first year of reforms. For example, in 2000, San Diego City (California)

Unified School District (USD) began school reform that entailed financing new initiatives. As these reforms were implemented, the district and its programs were restructured in such a way that there were no longer points of comparison for determining whether the district was in compliance with the SNS provision. In other words, funding for programs in the current school year could not be compared with funding for those in the previous year, because the programs had not previously existed. The Superintendent of the San Diego City USD told us that the reform plan could not have been implemented without the flexibility to reallocate resources within and among schools.

Some Officials Rely on the Single Audit, without Understanding What Its Scope and Methodology Mean for Assessing the SNS Provision

While some auditors struggled to apply the SNS provision to the particular circumstance of districts and schools, SEA officials were frequently unaware of what the results of a single audit actually meant, potentially failing to cover key programs or provisions of law, and thus adding to the difficulty of enforcing the SNS provision. For example, numerous state and local program officials told us that they assumed that the single audit covered every LEA and every program, even though this is not what single audits are designed to do. As a result, these officials may not engage in other oversight activities that are warranted. Because only those grant recipients that spend more than $300,000 in federal awards in any given year must undertake a single audit,[13] not all LEAs that receive Title I funds are required to undergo one. Furthermore, even if an LEA is audited, the Title I program may not be covered in the audit. The 1996 amendments to the Single Audit Act give auditors more freedom to determine which federal programs to include in their audit plan each year, allowing them to exclude some programs based on risk-based criteria and on expenditure-based criteria.[14] Many of the auditors we spoke with assessed risk by determining whether or not there had been findings of noncompliance in recent audits. For example, if an LEA had a clean audit with respect to the Title I program for the last few years, an auditor might legitimately view

[13]This threshold is appropriate as recommended in our previous work. (See U.S. General Accounting Office, *Single Audit: Refinements Can Improve Usefulness*, GAO/AIMD-94-133 (Washington D.C., June 21, 1994). Single Audits are intended to help focus audit resources where the Congress originally intended they be focused, that is, on recipients expending the largest amounts of federal financial assistance.

[14]The use of risk-based criteria is appropriate as recommended in our previous work. *Single Audit: Refinements Can Improve Usefulness*, GAO/AIMD-94-133 (Washington D.C., June 21, 1994). When considering program risk, auditors are required to consider such items as the recipient's current and prior audit experience with federal programs; the results of recent oversight visits by federal, state, and local agencies; and the inherent risk of the program.

the inherent risk of this program as low and exclude it from the audit in the next year. Auditors for both San Diego City (California) USD and Jefferson Parish (Louisiana) Public Schools told us that Title I probably would not be covered in the districts' 2002 single audit since there have been no recent findings on the program.

In addition, some officials thought that the single audit examined every transaction, even though it does not. As a result, officials may think that by fixing the instances reported they are solving all the problems, when in fact those problems may be more widespread. Generally accepted government auditing standards allow statistical sampling methods and auditors often use audit sampling to evaluate compliance with applicable requirements. This involves testing less than 100 percent of the items within a group of transactions for the purpose of evaluating compliance with applicable laws and regulations. Transactions could be randomly selected from all of the auditee's financial transactions for the year under review.[15] While this technique allows auditors to test the population of transactions for evidence of noncompliance and internal control weaknesses, it will not identify every specific instance of noncompliance.[16] When auditors of Douglas (Arizona) USD identified significant internal control weaknesses based on analysis of a sample of the district's financial they reported that their review of the district's internal controls would not necessarily disclose all instances of non-compliance. However, the SEA resolved the issue by requiring the auditee to reimburse the Title I program for the amount of the transaction under question only and did not further investigate if there were other erroneous payments made.

While there were problems with program officials understanding what single audits are and what results from the single audit meant, in general the auditors' work plans we reviewed followed the guidance recommended by Education and OMB for single audits. However, some of the auditors could not document that they had followed their work plans. For example, audit workpapers for San Diego City (California) USD show that auditors held a discussion with a district budget official who told the

[15]In some cases, a random sample as small as 45 transactions could be used to test the effectiveness of the internal control environment. A single error in this sample is evidence that the control environment is not highly effective, i.e., material errors may occur.

[16]To identify every occurrence of noncompliance, one would have to audit every transaction in the population.

auditors that they were in compliance with the SNS provision, but the workpapers did not indicate independent verification of these claims.

In five of the six states we reviewed, the SEA had a procedure in place to resolve audit findings reported through the single audit process. However, in 2001 the Louisiana Legislative Auditor reported in its statewide single audit that the SEA did not have adequate internal controls to monitor subrecipients for compliance with many federal education programs, including Title I. The SEA concurred with the auditor's finding and has implemented policies to address the deficiencies.

Selected States Conduct Limited Program Monitoring

All of the states we visited supplemented their reviews of LEAs' single audit reports with additional monitoring activities. While program monitoring provided a depth of coverage that cannot be achieved in single audits, these efforts were limited. Furthermore, in all of the states we visited, the primary focus of any additional monitoring activities has now centered on addressing efforts to raise the level of student achievement with considerably less focus given to fiscal accountability requirements. Informal monitoring by individuals and groups augmented the formal monitoring process.

Limited program monitoring also took place during the application review process. In all of the states we visited, the annual application process for Title I funding contains questions on historic and proposed program budget information that can be used by program officials in the SEA to oversee compliance with SNS and MOE. In addition, some states require LEAs to complete a self-assessment document in which they are asked to assess themselves on their compliance with federal program requirements. SEAs use these self-assessment documents for various purposes. For example, in Florida, annual self-assessments were used as a self-monitoring tool, but only one-quarter of the LEAs were required to actually send in the completed guide for review in any given year. In Arizona, the tool was also required annually and is designed to provide guidance in program development and to identify areas in which technical assistance may be needed. In California, LEAs must complete self-assessments once every 4 years, at which time SEA officials evaluate the self-assessment documents and use them to target their on-site monitoring activities to those LEAs that pose the highest risks.

While four of the six states we visited followed up LEAs' self-assessments with on-site visits, the extent to which they conducted such visits varied and, in some cases, was limited. Massachusetts and Arizona have scheduled on-site monitoring visits in the LEAs at least once every 6 years.

In Louisiana, state officials said that each LEA is visited once every 3 years. In California, while each LEA must go through the review cycle every 4 years. In addition, in 2001 two of the six states we visited, Florida and Indiana, did not follow up on the self-assessments with periodic on-site program monitoring.[17]

Several state officials highlighted the importance of informal monitoring networks, such as parents groups, in raising issues of noncompliance. These watchdog groups play an informal role in questioning inappropriate spending and submitting complaints to the school boards and, if they feel their concerns are not addressed at this level, elevating the issues to the SEA. SEA officials in both Indiana and California discussed recent inquiries that were brought to their attention, not through single audit reports or even program monitoring efforts, but rather by informal watchdog groups. In Indiana, the issues raised dealt with unallowable costs and high administrative charges to federal programs in one school; the SEA is investigating and, according to state officials, the matter is still unresolved. In California, a parents group in San Diego filed a complaint with the California Department of Education citing issues relating to, among other things, the reallocation of state and federal funding, including Title I funds, by the San Diego City (California) USD to fund its districtwide school reform strategy which, the watchdog group claimed, no longer provides a comparable level of service to all students with state and local funding. The SEA concurred and ordered the district to develop a plan to allocate the state and local supplemental funds that complies with all the federal comparability provisions. However, Education granted the district a waiver in August 2002 which will allow the district to proceed with the reform strategy under its current budget plan for 1 year.

Education's Key Efforts to Enforce Fiscal Accountability Provisions Have Limitations

We identified three key efforts the Department of Education made to help enforce the fiscal accountability provisions but each had limitations. First, Education developed guidance and provided technical assistance to state and local officials and their auditors; but, these officials have expressed confusion regarding application of the SNS provision to their particular circumstances. Second, Education conducted limited program monitoring of its own, but these efforts did not have fiscal accountability as a primary focus. Finally, Education reviewed states' single audit reports conducted under the Single Audit Act. But, the Inspector General of Education found

[17]Florida plans to begin on-site monitoring of LEAs this year.

that many reviewers in the department lacked knowledge about the single audit process and compliance issues. As a consequence, Education's monitors could fail to review key programs or provisions of law. In addition, we recently reported that Education could not demonstrate it consistently worked to resolve audit findings.[18]

Officials and Auditors Confused about Application of Fiscal Accountability Provisions to Their Particular Circumstances

Education developed guidance for its programs which appeared in the compliance supplement to OMB's Circular A-133. This guidance was the basis for the audit plans for all the districts we visited. Education's guidance itemizes the SNS, MOE, and the comparability requirements as separate statutory requirements. However, many state and local officials and auditors we spoke with thought the three requirements were related to each other and that, by meeting one or two of the requirements, they would automatically be in compliance with the others.

Some auditors and program officials confuse the comparability requirement with the SNS provision.[19] While comparability is primarily used to ensure that services—not funding—is comparable across schools in the LEA, the two issues are closely related and frequently confused. For example, guidance issued by the SEA in Arizona on the comparability requirement states that comparability is used to ensure that schools within an LEA do not supplant state and local funds with federal program funds. Operating under the same misconception, Indianapolis Public Schools incorrectly used the comparability test as the internal control to ensure compliance with SNS. Moreover, the district's auditors failed to question the appropriateness of this test to ensure compliance with SNS. A similar confusion was evident when officials in the Duval County Public Schools told auditors that they could not understand how they failed to comply with the prohibition on supplantation, given that they had not cut back on their own overall spending thereby meeting their MOE requirements and had documented meeting their comparability requirement.

[18]U.S. General Accounting Office, *Single Audit: Actions Needed to Ensure That Findings Are Corrected*, GAO-02-705 (Washington D.C., June 26, 2002).

[19]An LEA is considered to have met the statutory comparability requirements if it has implemented (1) an LEA-wide salary schedule; (2) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and (3) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies. In most of the states we visited, the SEA requires LEAs to submit certifications that they have implemented these policies, which the auditors can then verify during their annual audits.

Education recognizes that there is some confusion about the application of the provisions. Education officials acknowledge the challenges of writing guidance that can be understood and applied in every circumstance. Many federal program officials said that they frequently field questions from district officials and some auditors seeking technical assistance applying the provisions in local circumstances. In December 2002, Education issued new regulations that reorganized its guidance on schoolwide programs in a manner that might help address some of the confusion.

State and local education agencies and their auditors told us that they also rely on nongovernmental sources of guidance, such as workshops and materials provided by consulting firms. For example, auditors in Arizona provided us with excerpts from handbooks and other guidance on the Title I program.[20] School officials and auditors in other districts we visited also told us they supplement federal guidance with similar nongovernmental sources of guidance.

Fiscal Accountability Is Not the Primary Focus of Education's Program Monitoring

The fiscal accountability provisions have not been the focus of Education's own monitoring efforts. From 1995-2001, Education used an approach to program monitoring called an integrated review approach. Its primary focus was to see how all federal grant programs, working together, supported state and local reform efforts. The Title I program was included in these reviews. However, only 1 of the 9 indicators Education's monitors used in integrated reviews focused on fiscal issues; the rest focused on program performance, such as whether the state supported and promoted high standards for all children, and whether states used education research findings to inform decision making. Education's Inspector General criticized this approach to program reviews in 2001 because the integrated approach allotted insufficient time to monitor specific programs for compliance with federal laws and regulations. The Inspector General also found that the various teams of reviewers lacked

[20]Kristen Tosh Cowan, Esq. and Leigh M. Manasevit, Esq., Brustein & Manasevit, The New Title I: Balancing Flexibility with Accountability: Charles J. Edwards and Cheryl L. Sattler, Ph. D., contributing editors (Washington, D.C.: Thompson Publishing Group, Inc., 2002).

knowledge of the single audit process, thereby taking inconsistent approaches to doing the reviews.[21]

In 2002 Education drafted guidelines for its monitors to use in a new approach to program monitoring, but we found that the new approach gives fiscal accountability requirements little emphasis and it does not even mention SNS. In 2002, Education developed a new monitoring strategy which it has named: Achievement Focused Monitoring (AFM). As its name implies, the AFM approach seeks to realign oversight and technical assistance for Title I to concentrate on student achievement. Education officials acknowledged that their program monitoring guide does not mention SNS and said they would provide additional guidance to their monitors on the provision for use in the future. Education's AFM plan includes visits to 15 states—and at least one district in each state—in 2002 and 2003. By October 2002 Education had completed visits to four states.

Education's Review of State Single Audit Reports Has Weaknesses

Education has responsibility for reviewing the audit reports of state education agencies. In 2002, we reported actions were needed to ensure that grantees correct findings identified in state single audit reports. Each state must undertake a single audit each year. Each year their auditors determine which federal programs to include in their audit plan and audit those programs for compliance with the federal laws and regulations covering those grant programs. Although Education had procedures for obtaining states' single audit reports, distributing audit findings to appropriate audit offices, and assessing the seriousness of the findings, we found that reviewers did not demonstrate they consistently worked to resolve audit findings. Specifically, reviewers did not consistently follow-up with written management decisions on final audit resolution and did not communicate findings to senior department management.[22]

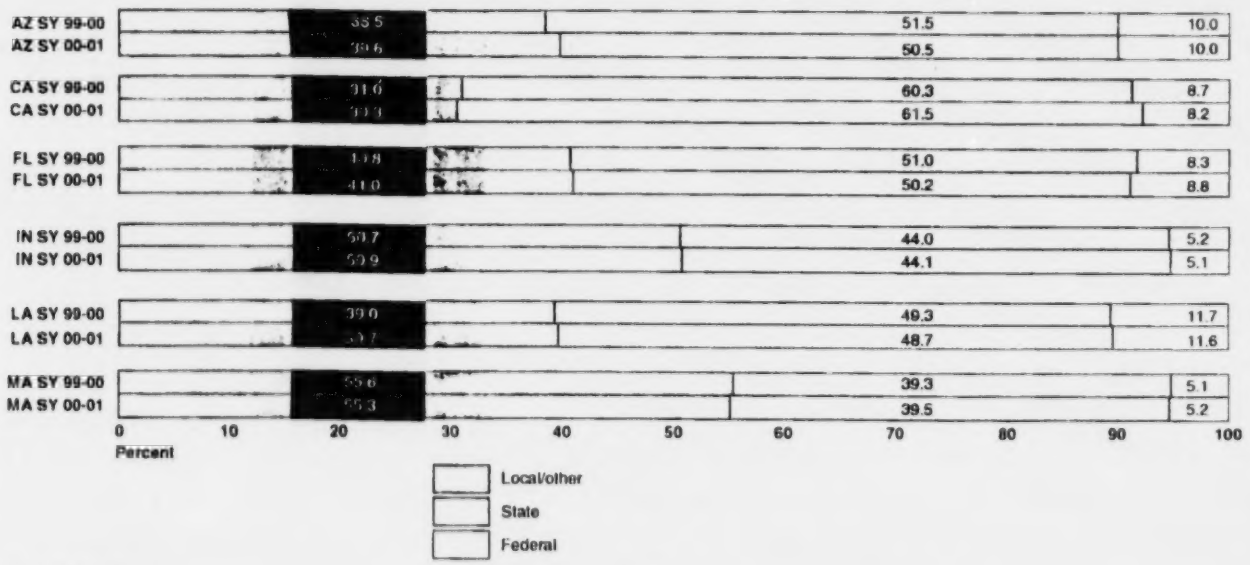
[21]Review of the Office of Elementary & Secondary Education's Monitoring of Formula Grants: Final Audit Report, Office of Inspector General, United States Department of Education, November 2001.

[22] U.S. General Accounting Office, *Single Audit: Actions Needed to Ensure That Findings Are Corrected*, GAO-02-705 (Washington D.C., June 26, 2002).

Little Change in Federal Share from School Years 1999-2000 to 2000-2001

We found that few changes have occurred in the relative shares of federal, state' and local funding for education for school years (SY) 1999-2000 and 2000-2001 (the most recent data available) in the six states we reviewed. (See fig. 2.) It is too soon to tell how recent increases in federal funds for Title I and other federal education programs and the fiscal pressures facing states will affect funding for education in general and how changes, if any, in state and local financing will affect the federal share. However, this information does provide a baseline against which we can compare the impact of increases in federal funds and state and local fiscal pressures in the future.

Figure 2: Changes in the Shares of Total Funding for Education Services in Six States between SY 1999-2000 and 2000-2001



Source: GAO analysis.

Note: Percentages do not add due to rounding.

In addition to the concern about the fiscal balance in education funding overall, questions have been raised about the federal share of operating SEAs. SEA operations include the administration of programs—primarily oversight, technical assistance, and training—related to specific federal programs operated at the local level. SEAs may also operate state-level programs, such as vocational rehabilitation. As we noted in a previous report, the level of federal support for SEA operations varied widely among states depending on the number and types of federal and state

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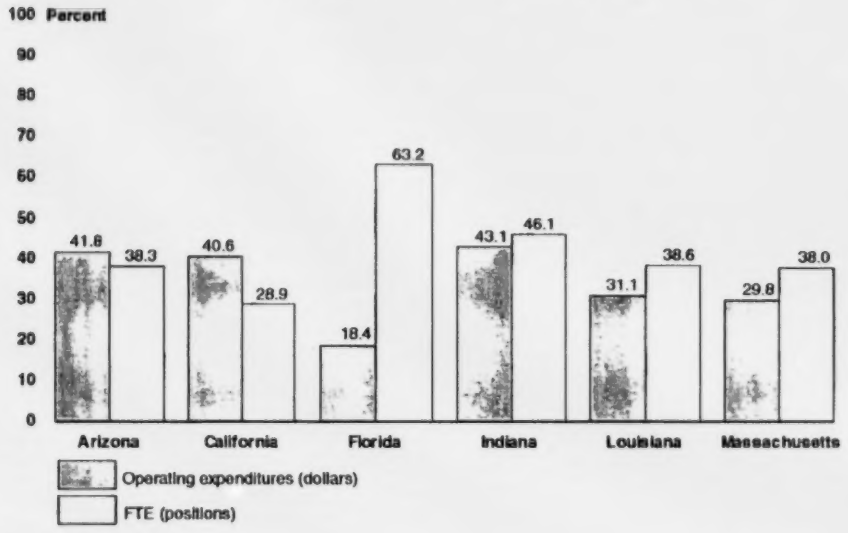
programs the SEA operates, ranging in fiscal year 1993 from about 10 to about 80 percent, with the average level of support being 41 percent.[23] To update this information, we looked at the federal share of SEA funding in the six states we visited for school year 1999-2000. As in the past, we found the federal share varied, from 18 percent in Florida to 43 percent in Indiana. (See the shaded bars in fig. 3.)

Figure 3: Federal Share of SEA Operations in Six States (SY 2000-2001)



Source: GAO analysis.

Another way to look at the federal share of SEA operating costs is through the number of full-time equivalent positions (FTEs) that are funded by federal funds. Some states operate federal programs at the state level, such as vocational rehabilitation and disability determination. These may require many more SEA FTEs than programs operated at the local level. For example, in 2000-2001, the Florida SEA assumed responsibility for the federal vocational rehabilitation programs that were previously housed in another state department, adding more than 1,000 positions to the SEA and raising its percent of federally funded FTEs from 43 percent to 63 percent.

[23]U. S. General Accounting Office, *Education Finance: Extent of Federal Funding in State Education Agencies*, GAO/HEHS-95-3 (Washington, D.C.: Oct. 14, 1994).

Finally, table 2 provides some additional context when making comparisons and contrasts among the states we visited. Per pupil expenditure calculations serve as a proxy reflecting the cost differences among states in providing education.

Table 2: Education Spending in Six States, School Year 1999-2000

	Total education spending (in billions)	Per pupil expenditure	Federal share of education spending
Arizona	$4.6	$5,656	10%
California	$45.1	$7,571	9%
Florida	$17.3	$7,269	8%
Indiana	$7.7	$7,813	5%
Louisiana	$4.8	$6,473	12%
Massachusetts	$8.7	$9,108	5%

Source: GAO analysis.

Conclusions

Single audits are a valuable oversight tool but they cannot be regarded as the sole tool to use in enforcing the compliance requirements. Additional oversight is always necessary to ensure that grantees are in compliance with the laws and regulations governing specific programs and grant management in general. Single audits should inform, not substitute for program monitoring. However, as we have noted, many state officials told us that they relied primarily on the single audits to oversee compliance with federal laws and regulations. Because of this reliance, state program officials responsible for overseeing this program must have a better understanding of the scope and limitations of these audits and supplement the audits with more effective and frequent oversight activities. Instances of noncompliance found in the course of a single audit should trigger a broader search to determine whether the error is systemic.

While NCLB emphasizes achieving higher student achievement levels, enforcing fiscal accountability is and will remain a critically important oversight activity. Resources for audit and evaluation activities will remain limited, and, as a result, these resources must be targeted where they will have the greatest impact. As we have noted, ensuring compliance with an MOE provision presents few challenges and requires few additional audit resources, whereas monitoring the SNS provision is very challenging and requires significant audit resources.

Maintaining the intergovernmental fiscal partnership in the education of disadvantaged and low-income students presents many challenges. Title I's

two fiscal accountability provisions—the MOE and the SNS provisions—are intended to limit the extent that grantees can use federal funds to replace their own and thereby erode the fiscal partnership. But each provision helps to maintain the fiscal balance in very different ways and at different levels—schools versus districts. The primary effect of a nonsupplant provision is to prevent the reallocation of state and local resources within a Title I school; essentially, that means that expenditures paid for with state and local resources in a Title I school in one year cannot be paid for with federal funds the next year. On the other hand, the MOE provision's primary effect is to limit the extent to which states and LEAs can use federal funds for general fiscal relief; that is, substituting federal funds for state and local funds generally, not just in Title I schools. As noted, in schoolwide programs grantees are not required to show that Title I funds are paying for additional services or are targeted to specific students, nor are they required to separately track federal program funds with other funds once they reach the school, thus "limiting the reallocation of resources" becomes unworkable in a schoolwide setting.

An inherent tension exists between fostering a flexible grant environment and ensuring fiscal accountability. For broader purpose grants, such as schoolwide programs, the SNS provision can work to constrain local flexibility in the use of federal funds by preventing districts from reallocating the use of federal, state, and local funds. Moreover, the provision is difficult to apply and can be very challenging to monitor and enforce, primarily because it is not workable in those environments. As we have previously reported, in flexible grant environments a strong MOE provision may prove more useful than an SNS provision in limiting the degree to which grantees can use federal funds to simply reduce their overall fiscal commitments.

That different parties would have different views of the value of the nonsupplant provisions is to be expected. Some argue that allowing supplantation of any kind increases the likelihood that states could weaken their commitment to educating disadvantaged children and diminish the fiscal impact of the federal grant. Potentially, supplantation allows the SEAs and LEAs to convert the federal Title I grant into a kind of revenue sharing program with very little incremental impact on education spending. Others would point to periodic changes to the Title I program allowing more schools to participate as schoolwide programs, suggesting that the Congress may be trying to encourage more flexible use of Title I funds to improve the quality of education for disadvantaged students and raise student achievement levels for all students, including low-income students. Furthermore, in times of fiscal stress and greater needs in

educating the disadvantaged, the reallocation of resources within and among schools may be the only way to finance comprehensive districtwide reform efforts. A nonsupplant provision could stymie those districts that need more flexibility to attempt such reforms.

Matters for Congressional Consideration

To better align its expectations for accountability with Title I schoolwide program goals, the Congress should consider eliminating the SNS requirement for schoolwide programs. If Congress eliminates SNS in the context of schoolwide programs, Congress may want to consider strengthening the other fiscal accountability requirement, MOE. Currently, LEAs must maintain only 90 percent of their previous years' expenditures in order to participate in the Title I program. For example, if this requirement were increased, it would impose a higher expectation on those districts to maintain the fiscal balance and it could represent a reasonable tradeoff for those districts that want to begin more comprehensive reform efforts.

Recommendations for Executive Action

We recommend that the U.S. Department of Education enhance its technical assistance and training efforts to ensure that SEAs and Education program staff have a clearer understanding of the strengths and weaknesses of the single audit process and the role the audits can play in required oversight activities and encourage them to heighten the level of attention they give the fiscal requirements in their own monitoring efforts. In addition, we recommend that Education amend its guidance for grantees and oversight officers to address all of Title I's fiscal requirements, including the SNS provision.

Agency Comments

We received comments from Education on a draft of this report, which are reprinted in Appendix II. Education generally agreed with our recommendations for executive action to enhance its technical assistance and training efforts on the single audit process and to amend its own guidance to address all of Title I's fiscal accountability provisions.

On the policy issue of whether to eliminate the SNS requirement for schoolwide programs, Education is not ready to take a position. However, Education questioned the basis for the matter for congressional consideration that we propose. Education acknowledges the difficulties enforcing the SNS provision in schoolwide programs and we found that none of the districts we visited were able to develop a test for SNS that could be applied in a schoolwide setting. Education cited recent

supplanting violations found by Title I monitoring staff to show that it was possible to assess supplantation in a schoolwide setting. However, according to an Education official, these findings were not for schoolwide programs.

Education says that the loss of the SNS requirement would not be completely offset by an enhanced MOE requirement because it would shift responsibility for fiscal accountability from the school to the district level. However, our review shows that the current requirement is unworkable in a schoolwide setting. As we said, while one can identify the separate funding sources going into a school, one cannot identify what services they funded in a schoolwide setting because federal, state, and local funds are pooled. In contrast, an MOE requirement is easier to measure, identify, and track, and therefore better promotes fiscal accountability in these settings. If Congress considers eliminating the SNS provision, we believe that enhancing the MOE requirement is a reasonable tradeoff. With regard to Education's regulation governing the SNS requirement that Education said we did not discuss, we did discuss this on page 13. We have added a footnote to make the report more clear on that point.

Education said that it did not agree that the level or scope of monitoring is inadequate. However, we found that Education's efforts to enforce the fiscal provisions have some limitations. By design, Education's current monitoring effort is directed at the provisions on accountability for academic results, but we found that the fiscal requirements were given little attention, and the materials developed by Education to guide monitoring efforts did not even mention SNS.

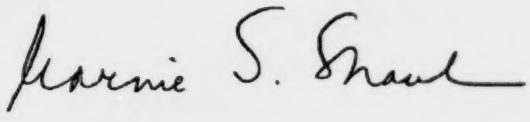
Finally, with regard to Education's review of single audit reports, this finding was published previously in our June 2002 report and specifically assessed the Title I program. The department concurred with our findings at that time and has provided us with a corrective action plan. Secretary Paige's August 26, 2002, letter to GAO indicated that it planned to address these findings by February 28, 2003.

In addition, we provided segments of this draft report to the states and school districts we visited. We have incorporated their comments in the report as appropriate.

We are sending copies of this report to the Secretary of Education, appropriate congressional committees, and other interested parties. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions or wish to discuss this material further, please call Paul L. Posner at (202) 512-9573 or Marnie S. Shaul at (202) 512-7215. Other GAO contacts and staff acknowledgments are listed in appendix III.

Paul L. Posner
Managing Director, Intergovernmental Relations
and Federal Budget Issues



Marnie S. Shaul
Director, Education, Workforce,
and Income Security Issues

Appendix I: Scope and Methodology

To determine how select states ensure compliance with maintenance of effort (MOE) and supplement-not-supplant (SNS), we interviewed state program and budget officials in six states: Arizona, California, Florida, Indiana, Louisiana, and Massachusetts. We also reviewed budgets and financial statements for school years 1999-2000 and 2000-2001, as well as state guidance on fiscal accountability requirements. We also spoke with state auditors and reviewed their audit plans and other relevant workpapers. In addition to meeting with state officials, we spoke with local program and budget officials and school district administrators in six local education agencies including Douglas Unified School District and Glendale Elementary School District in Arizona, San Diego City Unified School District in California, Duval County Public Schools in Florida, Indianapolis Public Schools in Indiana, and Jefferson Parish Public Schools in Louisiana. Again, we reviewed budgets and financial statements for school years 1999-2000 and 2000-2001 and local auditors' audit plans and relevant workpapers.

We selected two of the states and three local school districts based on our search of the Federal Audit Clearinghouse,[1] which is a Web-based database that we searched to identify states and school districts found out of compliance with one or more of the Title I fiscal accountability requirements in 2001. Two of the six states we selected were out of compliance with one of the fiscal accountability requirements, while the other four were not. Likewise, three of the school districts we visited were found to be out of compliance with the SNS provisions; the other three were not. Those states and local school districts without audit findings were selected to ensure variation in enrollment size, ethnic composition, economic condition, and geographic location.

To determine what efforts the U.S. Department of Education has taken to enforce the Title I fiscal accountability provisions and what limitations, if any, these efforts may have, we spoke with Education officials and reviewed Education guidance and documentation as well as recent GAO and OIG reports.

To assess what changes occurred between school years 1999-2000 and 2000-01 in the federal share of education expenditures and to what extent

[1]The Federal Audit Clearinghouse single audit database was established as a result of the Single Audit Act Amendments of 1996 and contains summary information on the auditor, the recipient and its federal programs, and the audit results.

federal funds were used to support state education agencies' operating expenditures, we gathered information from state program and budget officials on federal, state, and local funding streams as well as full time equivalent (FTE) and operating expenditure data. We analyzed and summarized this information and presented it in a way that provides context and comparison across the six states. Due to the limited number of states and districts selected, our findings cannot be generalized to school districts nationwide.

Appendix II: Comments from the Department of Education

UNITED STATES DEPARTMENT OF EDUCATION

THE UNDER SECRETARY

February 24, 2003

Ms. Marnie S. Shaul
Director
Education, Workforce,
and Income Security Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Shaul:

This is in response to the draft report, "Disadvantaged Students: Fiscal Oversight of Title I Could Be Improved (GAO 03 377)" developed by GAO subsequent to its review of the implementation of the Title I fiscal requirements in six States, and of the Department of Education's efforts to enforce these requirements. Although GAO makes two recommendations for "Executive Action" with which we generally agree, there are a number of statements in the report that are factually incorrect.

GAO recommends under "Matter for Congressional Consideration" (on page 26 of the report) that Congress consider eliminating the "supplement, not supplant (SNS)" requirements for schoolwide programs, and "strengthen" the maintenance of effort (MOE) requirement. While we are not yet ready to take a position on the proposed legislative change in light of the short time given to comment, we are commenting on GAO's basis for suggesting such a change.

In support of this recommendation, GAO cites the difficulty in determining compliance with the SNS requirement ("ensuring compliance with an MOE provision presents few challenges and requires few additional audit resources, whereas monitoring the SNS provision is very challenging and requires significant audit resources"). Though compliance with the SNS provision of the Title I legislation might be challenging in some instances, the provision is important in ensuring that Title I funds are supplementary in a schoolwide context and we do not believe that the recommendation to eliminate the provision is well supported. The SNS requirement provision helps to maintain the integrity of the program and to ensure that Title I funds are used to supplement State and local education funds.

The SNS requirement is very important in meeting the longstanding Congressional intent of the Title I program, which the authorizing statute makes clear is to supplement State and local education resources for the purpose of providing the additional instruction that low-achieving students in high-poverty schools need to meet State academic standards. For example, section 1114(a)(2)(B) of the ESEA states that schoolwide programs must use Title I funds "only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school."

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Similarly, schoolwide reform strategies must "increase the amount and quality of learning time" [1114(b)(1)(B)(ii)(II)] and targeted assistance programs must "give primary consideration to providing extended learning time" [1115(c)(1)(C)(i)]. In this context, the SNS requirement is central to the fiscal integrity of the program and to the successful achievement of the goals that Congress and President Bush set for Title I in the No Child Left Behind Act.

The SNS provision has meaning within the context of a schoolwide program and merely raising the MOE level for a local educational agency (LEA) would not ensure that a particular school or its students receive a fair share of State and local resources. Under the Department's regulation governing the SNS requirement in the context of schoolwide programs (in 34 CFR 200.25(d)), which the GAO draft report does not discuss, a school operating a schoolwide program must use its Title I and other Federal funds only to supplement "the total amount of funds that would, in the absence of the Federal funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency." (See also the guidance in the compliance supplement.) The MOE provision does not serve to ensure that a particular school operating a schoolwide program receives supplemental services from the Federal funds.

We also do not agree that the level or scope of monitoring is inadequate. While we continue to make improvements to the monitoring process, we believe that our current monitoring is appropriately directed at the provisions on accountability for academic results and other requirements, including the fiscal requirements. Recently Department Title I monitoring staff found supplanting violations in providing Title I services in the use of Title I equipment at private schools, the funding of pre-school programs, and Title I-paid salaries of administrators at the LEA level. We are continuing to work with the States involved to resolve these matters. While we agree that there is no simple numeric formula that can be applied to SNS, as can be done for comparability and maintenance of effort, this does not make the prohibition any less important or valuable for ensuring that the Title I program is truly supplementary and has the full opportunity to have a positive impact on the students it serves. Determining if SNS is being met may require a comparison of Title I schools to non-Title I schools, looking at school, LEA and State education agency budgets to determine if resources have been cut in the anticipation of the receipt of the Federal funds, and asking questions of school personnel, LEA personnel, and SEA personnel. Further, strengthening the MOE provisions to require LEAs to maintain 95 percent of their previous year's expenditures (an increase from 90 percent) would not "offset" a diminished role of SNS.

GAO concludes (on page 24 of the report) that "the primary effect of a nonsupplant provision is to prevent the reallocation of State and local resources within a Title I school." This is only partially correct - while it would not be permissible for an LEA to pay for goods and services with State and local funds one year, and then use Title I funds for those same goods and services the next, the SNS provision prohibits LEAs from using Title I funds for activities that would otherwise be funded with State and local funds. Department Title I monitoring staff have found instances of noncompliance with the SNS

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requirement in the immediate (current) school year when monitoring was conducted. What we have found (in the instances noted above) is that, in some cases, LEAs use Title I funds to pay for services or activities in Title I schools, and use State or local funds to pay for these same services or activities in non-Title I schools. This is a clear violation of the SNS requirement.

Lastly, we disagree with the "finding" on pages 21-22 of the report that, "although Education had procedures for obtaining States' single audit reports, distributing audit findings to appropriate audit offices and assessing the seriousness of the findings, we found that reviewers did not demonstrate they consistently worked to resolve audit findings. Specifically, reviewers did not consistently follow-up with written management decisions on final audit resolution and did not communicate findings to senior department management." Since the report deals specifically with the Title I (Part A) program, we must assume that the 'reviewers' referenced in the report are those in the Department responsible for the Title I audit resolution process. These staff have consistently followed Department policy and procedures in reviewing and resolving audits, conducting thorough analyses of State audit reports (including audit work papers) in a timely manner. These staff fully understand the fiscal provisions discussed in the report and are very capable of reviewing findings involving these provisions. Final Department responses to all Title I-related audits are prepared by experienced staff, and reviewed by other Department offices with expertise in implementing and understanding these requirements (including, in some cases, the Office of Inspector General) and are ultimately issued by the Assistant Secretary after a careful review process.

We have no problems with improving technical assistance as recommended by the draft GAO report. However, we believe that the draft GAO report does not fully recognize the strength of regulations and guidance that the Department has already issued, the success of its monitoring efforts, and the knowledge and understanding of the fiscal requirements by those involved in the audit resolution process. Therefore, we believe that the draft report has some serious weaknesses. We would be glad to work with GAO to supply further information to improve the report.

Sincerely,

Eugene W. Hickok

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Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Acknowledgments

In addition to those named above Bill Keller, Jennifer Ashford, and Leah Nash made key contributions to this report. Patrick DiBattista provided exceptional editorial assistance on the content and message of the report. Behn Miller and Richard P. Burkard supplied legal advice on several complex aspects of our work. Thomas Broderick and Jacquelyn Hamilton provided technical assistance on the Single Audit Act.

Appendix IV: Related GAO Products

Education

Education School Finance: Per-Pupil Spending Differences between Selected Inner City and Suburban Schools Varied by Metropolitan Area. GAO-03-234. Washington, D.C.: December 9, 2002.

Title I: Education Needs to Monitor States' Scoring of Assessments. GAO-02-393. Washington, D.C.: April 1, 2002.

Title I Funding: Poor Children Benefit Though Funding Per Poor Child Differs. GAO-02-242. Washington, D.C.: January 31, 2002.

Title I Preschool Education: More Children Served, but Gauging Effect on School Readiness Difficult. GAO/HEHS-00-171. Washington, D.C.: September 20, 2000.

Title I Program: Stronger Accountability Needed for Performance of Disadvantaged Students. GAO/HEHS-00-89. Washington, D.C.: June 1, 2000.

Education Finance: Extent of Federal Funding in State Education Agencies. GAO/HEHS-95-3. Washington, D.C.: October 14, 1994.

Single Audit

Single Audit: Single Audit Act Effectiveness Issues. GAO-02-877T. Washington, D.C.: June 26, 2002.

Single Audit: Actions Needed to Ensure That Findings Are Corrected. GAO-02-705. Washington, D.C.: June 26, 2002.

Single Audit: Survey of CFO Act Agencies. GAO-02-376. Washington, D.C.: March 15, 2002.

Single Audit: Update on the Implementation of the Single Audit Act Amendments of 1996. GAO/AIMD-00-293. Washington, D.C.: September 29, 2000.

Single Audit: Refinements Can Improve Usefulness. GAO/AIMD-94-133. Washington, D.C.: June 21, 1994.

Intergovernmental Relations

Welfare Reform: Challenges in Maintaining a Federal/State Fiscal Partnership. GAO-01-828. Washington, D.C.: August 10, 2001.

Welfare Reform: Challenges in Saving for a Rainy Day. GAO-01-674T. Washington, D.C.: April 26, 2001.

Welfare Reform: Early Fiscal Effects of the TANF Block Grant. GAO/AIMD-98-137. Washington, D.C.: August 18, 1998.

Federal Grants: Design Improvements Could Help Federal Resources Go Further. GAO/AIMD-97-7. Washington, D.C.: December 18, 1996.

Block Grants: Issues in Designing Accountability Provisions. GAO/AIMD-95-226. Washington, D.C.: September 1, 1995.

Block Grants: Characteristics, Experience, and Lessons Learned. GAO/HEHS-95-74. Washington, D.C.: February 9, 1995.

Proposed Changes in Federal Matching and Maintenance of Effort Requirements. GAO/GGD-81-7. Washington, D.C.: December 23, 1980.

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